

KASHA K. POLLREISZ

California Bar No. 204148

FEDERAL DEFENDERS OF SAN DIEGO, INC.

225 Broadway, Suite 900

San Diego, California 92101-5008

Tel: (619) 234-8467 / Fax: (619) 687-2666

kasha_pollreisz@fd.org

Attorneys for Mr. Camacho-Melendez

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
(HONORABLE WILLIAM Q. HAYES)

UNITED STATES OF AMERICA,) Case No. 08CR0724-WQH

Plaintiff,)

Date: May 20, 2008

Time: 9:00 a.m.

v.)

**ATTORNEY-CONDUCTED
VOIR DIRE**

JOSE CAMACHO-MELENDEZ)

Defendant.)

Pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure, the defendant, Guillermo Camacho-Melendez, by and through counsel, Kasha K. Pollreisz, and Federal Defenders of San Diego, Inc., submits these subjects of questioning for the requested attorney-conducted voir dire.

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PROPOSED VOIR DIRE QUESTIONS

TESTIMONY BY LAW ENFORCEMENT

1. This case will involve testimony from law enforcement officials, including special agents of the Customs and Border Protections and Immigration and Customs Enforcement. Do any of you believe that testimony by law enforcement officials is inherently more reliable or truthful simply because of that witness' job within the United States government? Would any of you believe that an agent is more likely to tell the truth solely because they are a law enforcement officer?

2. Is there anyone who thinks, because of their role as law enforcement agents, the testimony of an agent deserves more consideration or carries more weight, than that of an ordinary witness? Or if the Officer's testimony carries more weight than the testimony of Mr. Camacho-Melendez if he chooses to testify?

3. If the testimony by law enforcement officials is not supported by other evidence introduced at trial or even conflicts with such evidence, would you still find the testimony credible simply because of its source?

PRESUMPTION OF INNOCENCE

1. Has everyone heard the phrase—"presumed innocent until proven guilty"? If you were asked to decide right now, before there has been any evidence presented, whether Mr. Camacho-Melendez is innocent or guilty, do you understand that you must find Mr. Camacho-Melendez not guilty?

2. Is there anyone who feels that if Mr. Camacho-Melendez has been charged with such a serious crime, it probably means he did it? Is there anyone that feels that Mr. Camacho-Melendez must be guilty because it's the United States government who filed the charges?

3. Every person that is charged with a crime is innocent until proven guilty. You must presume Mr. Camacho-Melendez is innocent throughout the entire proceeding until you reach a verdict. Is anybody uncomfortable with this concept or think that this concept is wrong?

4. Mr. Camacho-Melendez is presumed to be innocent. The government has the burden to prove every element of this case beyond a reasonable doubt. If it does not do that, you must find Mr. Camacho-Melendez not guilty. Some people have strong feelings about the government's role in a case like this. For

1 example, this case will turn on whether Mr. Camacho-Melendez knew there was aliens in the truck. Do
2 any of you feel so strongly about this that your personal feelings would prevent you from following the
3 judge's instructions?

4 **IMMIGRATION**

5 1. You will hear that Mr. Camacho-Melendez is a Mexican citizen with a lawful border crossing
6 card. Do you think that people who are not U.S. citizens have a right to a fair trial? Should people who do
7 not live in the United States but who have permission to cross the border still have a right under the U.S.
8 Constitution to a fair trial? Why or why not?

9 2. Is anyone a part of volunteer immigration-enforcement or immigration concern organizations?
10 Does anyone have strong feelings on immigration? Will your perspective on immigration affect how you
11 view an immigrant's case?

12 **BORDER/IMMIGRATION**

13 1. How many of you have never been through a port of entry into or out of Mexico?

14 2. How many of you or your family members have recently crossed the United States-Mexico
15 border? What were your experiences when you reached the Customs booth?

16 3. Have any of you ever been referred to the secondary inspection area at the border? How did you
17 feel?

18 4. Has anyone ever crossed through the San Ysidro Port of Entry?

19 5. Border issues have been highly publicized in the media lately. Does anyone have strong opinions
20 about the border issues the media has been discussing? For those of you with very strong opinions about
21 border issues, would that affect your ability to judge this case since Mr. Camacho-Melendez is a being
22 charged with bringing in aliens to the United States for financial gain?

23 **CONDITIONS OF THE COMPARTMENT**

24 1. Mr. Camacho-Melendez is accused of bringing to the United States two aliens for the purpose
25 of financial gain. Does anyone have such strong feelings against alien smuggling that they would be unable
26 to weigh the evidence in this case to determine whether the government has proven their accusations? Does
27 anyone have strong feelings about alien smuggling that would keep them from being a fair and impartial
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1 juror? Does anyone have such strong feelings about illegal immigration in general that they would not be
2 able to sit on this case.

3 2. Does the location of the aliens alone make someone believe that Mr. Camacho-Melendez is
4 guilty? You will hear that the aliens were going to pay someone other than Mr. Camacho-Melendez a great
5 deal of money in order to be smuggled into the United States. Does the amount of money alone make
6 someone believe that Mr. Camacho-Melendez is guilty?

7 3. Does anyone here believe that every person who is driving a vehicle containing an illegal alien
8 must be held responsible for it? Under what circumstances do you believe that someone should be held
9 responsible? Under what circumstances do you believe that someone should not be held responsible? Can
10 everyone accept the fact that the government must prove beyond a reasonable doubt that Mr. Camacho-
11 Melendez knew there were aliens hidden in the truck? Can everyone accept the fact that if the government
12 fails to prove that Mr. Camacho-Melendez knew there were aliens hidden within the truck, they must return
13 a verdict of not guilty? Does anyone feel that they would be unable to hold the government to that burden?
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15 **REASONABLE DOUBT/BURDEN OF PROOF**

16 1. Do you realize that the burden of proof is greater for a criminal case than for a civil case and that
17 the government must prove each element of each charged offense beyond a reasonable doubt? That is, proof
18 that leaves you firmly convinced that someone did what they are accused of?

19 2. Does anyone here believe they could not apply this high standard in this criminal case?

20 3. If the prosecution put on its case and we, the defense, did nothing, i.e., we did not question any
21 government witnesses or put on any evidence of our own, is there anyone here who would not be able to
22 vote not guilty? In other words, is there anyone here who would have to hear from both sides in order to
23 judge Mr. Camacho-Melendez not guilty?

24 4. Do you understand that it is not Mr. Camacho-Melendez's burden to prove that he did not do
25 what he is accused of, but rather, the government must prove to you that he did? Is there anyone who would
26 expect the defense to put on a case or produce some evidence before they could vote not guilty?
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FIFTH AMENDMENT RIGHT NOT TO TESTIFY

1. Do you understand that Mr. Camacho-Melendez has an absolute right under the Fifth Amendment of the Constitution not to testify?

2. Is there anyone here who feels that they definitely could not render a not guilty verdict if they did not hear from Mr. Camacho-Melendez personally?

3. Can any of you imagine innocent reasons why an individual would chose not to testify?

4. Do you understand that if Mr. Camacho-Melendez does not testify that the government must still prove their case beyond a reasonable doubt?

FIFTH AMENDMENT RIGHT TO TESTIFY

1. Mr. Camacho-Melendez has the right to testify in his case. If he testifies, would you give Mr. Camacho-Melendez's testimony the same weight and consideration as the testimony of a law enforcement officer?

2. Do you understand that even if Mr. Camacho-Melendez testifies, it is still the government's burden to show that Mr. Camacho-Melendez is guilty beyond a reasonable doubt?

Respectfully submitted,

/s/ Kasha K. Pollreisz

DATED: May 19, 2008

KASHA K. POLLREISZ
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Camacho-Melendez
kasha_pollreisz@fd.org